

State of New Jersey  
Department of Labor and Workforce Development  
Board of Review

## MEMORANDUM

**To:** Cornelia Calderone, Chair, Joseph Sieber,  
Vice Chairman, and Frank Serico, Member

**From:** Gerald Yarbrough, Executive Secretary  
Board of Review

**Subject:** Minutes of the June 28, 2006  
Board of Review Meeting

**Date:** July 10, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, June 28, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, July 12, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair  
Mr. Sieber, Vice Chair  
Mr. Yarbrough, Executive Secretary  
Absent: Mr. Serico, Member

2. Following a motion by Mr. Sieber and seconded by Ms. Calderone, the minutes of the June 21, 2006 meeting were approved.

3. New Business

(a) 105,201

Mr. Maddow presented this case that involved a claimant who was employed and had earnings during the same period she received unemployment benefits. The Appeal Tribunal had held the claimant liable to repay the benefits, a fine, and a one year disqualification from receiving benefits. The Board noted that the record was lacking regarding the reason the claimant claimed benefits during the time she was working. As a result, the Board voted to remand the case for additional

testimony from the claimant and the Deputy. Mr. Maddow will prepare the remand.

(b) 110,289

Mr. Maddow described this case that involved a claimant who was unable to perform the duties of her job and received State Plan disability benefits from January 17, 2006 through March 13, 2006. The claimant had an Independent Medical Examination (IME) on March 14, 2006. The IME physician determined that the claimant was able to work. The claimant was seen by her treating physician on March 29, 2006. That physician determined that the claimant remained unable to perform the duties of her job. The Appeal Tribunal had held the claimant ineligible for State Plan disability benefits as of March 14, 2006. The Board noted that the treating physician held more weight than an IME physician and voted to reverse the Appeal Tribunal. Mr. Maddow will prepare the decision.

(c) 109,222

As described by Ms. Gagliardo, this case involved a claimant who last worked as an electrical engineer and was separated as a result of a lack of work. The employer contends that the claimant was an independent contractor. The Appeal Tribunal had held the appeal timely and the employer liable for charges to its experience rating account. The Board noted that the claimant's services were in "employment" and voted to modify the Appeal Tribunal. Ms. Gagliardo will prepare the decision.

(d) 108,928

As presented by Ms. Barnwell, this case involved a claimant who left work because he was told he would be discharged if he did not meet his sales quota. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A.43:21-5(a). After discussion, the Board noted that the claimant's separation was imminent and voted to reverse the Appeal Tribunal. Ms. Barnwell will prepare the decision.

There being no further business to transact, a motion was made by Ms. Calderone to adjourn the meeting. Mr. Sieber seconded the motion.

SUBMITTED FOR APPROVAL:

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Gerald Yarbrough  
Executive Secretary

GY:gs

